THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 19185 of 2007

Date:01-10-2007

Between:

Smt.G.Seetha

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Petitioner

AND

The Commissioner,Appeals, Office of the Chief Commissioner, Hyderabad and another

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Respondents

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ORDER:

The petitioner seeks a writ of mandamus to declare the action of the respondents in dismissing the appeal No.HYD/163/95, dated 23.05.2007 on the file of the Commissioner, Appeals, Office of the Chief Commissioner of Land Administration, A.P. Hyderabad for default, and declaring the petitioner as surplus landholder to an extent of 255.70 square metres in Plot NO.108 in Sy.No.128 of Yousufguda village, Hyderabad, as illegal and arbitrary.

It is the case of the petitioner that as against the order, dated 06.06.1995 passed by the second respondent-Special Officer & Competent Authority, Urban Land Ceilings, Hyderabad holding that the petitioner is surplus landholder to an extent of 255.70 square metres in Plot No.108 in Sy.No.128/1, Yousufguda, the petitioner filed an appeal before the first respondent and the said appeal has been dismissed for default as well as on merits by order, dated 23.05.2007 in Proceedings No.Hyd./163/95 on the ground that the appeal has been admitted and posted for hearing on several occasions with (27) adjournments given from 19.08.1995 to 24.04.2007 and for (16) hearings neither the counsel for the appellant nor the appellant was present and therefore, the case was posted for final hearing on 24.04.2007, on which date also the appellant was not present and accordingly, the appeal was dismissed.

It is the case of the petitioner that he is aged about 72 years and do not keeping good health and there was no regular contact with his counsel and therefore, there was default on his part as well as his

counsel.

I do see any amount of negligence or lethargy or indifference on the part of the petitioner and his counsel in not attending the Court of the first respondent.

But, having regard to the age of the petitioner and other contentions, I am of the opinion that in view of the peculiar facts and circumstances of the case, the order under appeal is liable to be set aside and the matter is to be remitted to the first respondent for disposal according to law.

Accordingly, the writ petition is allowed and the order under appeal is set aside and the matter is remitted to the first respondent for disposal in accordance with law with a direction to dispose of the same within three weeks from the date of receipt of a copy of this order. The first respondent is further directed to fix the date of hearing of the appeal duly intimating the same to the parties. If the petitioner or his counsel fails to appear on the date fixed by the first respondent, it is open for him to pass final orders on that day. No costs.

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V.ESWARAIAH, J.

Date:01.10.2007
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